

**ANDOVER CITY COUNCIL  
Tuesday, December 11, 2007  
Minutes**

The Andover City Council met for a regular meeting on Tuesday, December 11, 2007 at 909 N. Andover Road in the Andover Civic Center. Mayor Ben Lawrence called the meeting to order at 7:00 p.m. City Council Members present were Caroline Hale, Kevin Dreiling, Julie Reams, J.R. Jessen, Clark Nelson, and Carol Roberts. Others in attendance were: Director of Public Works and Community Development Les Mangus, Administrative Services Director Donna Davis, Management Assistant Sasha Stiles, Administrative Secretary Susan Renner, City Attorney Norman Manley, Fire Chief Jim Shaver, Police Chief Mike Keller, and City Clerk/Administrator Jeff Bridges.

The Invocation was given by Ted Carr of the Central Baptist Church.

Invocation

The Pledge of Allegiance was led by Mayor Lawrence.

Pledge of Allegiance

Mayor Lawrence opened the floor to public comment. No one spoke.

Public Forum

A motion was made by Council Member Nelson, seconded by Council Member Reams to accept the agenda as presented. Motion carried 6/0.

Agenda

Mayor Lawrence opened the public hearing for the 2007 Budget Amendment. No one spoke. Mayor Lawrence closed the public hearing.

2007 Budget Amendment

A motion was made by Council Member Jessen, seconded by Council Member Hale to accept the consent agenda.

Consent Agenda

A. Approval of Minutes: City Council Workshop November 26, 2007  
City Council Meeting November 27, 2007

B. Receive & file Minutes: Site Plan Review October 2, 2007  
Park Planning Committee October 4, 2007  
Subdivision Committee October 9, 2007  
Library Board October 10, 2007  
Planning Commission October 16, 2007

C. Receive & file reports:  
i. Finance  
ii. Police  
iii. Fire  
iv. Library

D. Approval of appropriation ordinance B-23-07 in the amount of \$538,739.70

E. Renewal of Cereal Malt Beverage Licenses for 2008

- 1. Dillon Stores, Div of Dillon Co., Inc.  
426 S Andover Road  
Francis Wasinger, Manager/Agent
- 2. Kwik Shop, Inc #717  
114 West Hghway 54  
Shirley Pannell, Manager/Agent
- 3. Cedar Pines of Andover, L.L.C.  
1208 W Hwy 54  
Robert Bauer, Manager/Agent

F. Acceptance of two (2) temporary construction easements for water and sewer improvements for the Serendipity Addition. (Generally located ½ mile south of Central Avenue on 159<sup>th</sup> Street)

G. Approval of purchase of two (2) Dell computers for \$5,168.00, one for the City Administrator and one the Director of Public Works. One (1) additional Dell computer for the Information Technology Department at a cost of \$2,996.90. All three (3) computers will be purchased direct from Dell.

H. Approval of the solicitation of bids for a new plotter/printer for the GIS Mapping Department. Bids to be opened on December 19, 2007 at 1:00 p.m.

Motion carried 6/0.

Mayor Lawrence presented Ordinance 1369 - an ordinance changing the zoning district classification of certain lands located in the City of Andover, Kansas, under the authority granted by the zoning regulations of the City as originally approved by Ordinance No. 1187. (545 S Andover Road)

Ordinance 1369  
Case Z-2007-09  
545 S Andover Road  
R-1 to B-3

**ANDOVER CITY COUNCIL**

**CHECKLIST FOR CONSIDERATION OF A**

**REZONING AMENDMENT AND/OR SPECIAL USE CASE(S)**

**PURPOSE:**

This checklist is to assist: (1) the Mayor in conducting the discussion and decision on a rezoning amendment case; (2) the City Clerk in an orderly process of minute taking; (3) the applicant in presenting new information; and (4) any property owners or the persons who have new information or wish to know their rights in the matter. Although the order of the outline should be followed, the material will need to be modified to relate to the particular case and whether the

case is for a rezoning amendment and/or a special use. If rezoning and special use cases are heard concurrently consideration and action will need to be taken on the findings and factors and recommendations since the reasons for approval or disapproval or attaching any conditions may be different. The Mayor will find it helpful to have a checklist marked up on each case(s) prior to the meeting so that important procedural points are not inadvertently missed. This checklist is in keeping with the procedures in K.S.A. 12-757(c), (d) and (e) and the decision in Houston v. Board of (Wichita) City Commissioners, 218 Kan. 323 (1975). The latter determined that:

*“Where the statutory requirements are full met (Ed: Notice and public hearing) and a full and complete record of the substance of the planning commission proceedings is before the governing body, due process does not require the governing body to conduct a second public hearing on the advisability of the proposed change.” (Syllabus)*

**CALL AGENDA ITEM:**

I call Agenda Item # 9 which is on Case No. (Z-2007-09). This is for a rezoning amendment requesting a change from the present R-1 Single-Family Residential District to the B-3 Central Shopping District.

**DISQUALIFICATION DECLARED AND QUORUM DETERMINED:**

Before we proceed with the hearing, I'll ask the Council members if any of them intend to disqualify themselves from discussing and voting on this case because they have conflicts of interests or a particular bias on this matter. (Please let the minutes show that Kevin Dreiling has disqualified himself due to possible conflict of interest and has temporarily disassociated himself from our Council agenda for item 9) Ordinance 1369 and item 10) Ordinance 1370.

We have a quorum of five (5) present for the consideration of the case.

**ANNEXATION:**

Is the property requesting the zoning change inside the city limits? Mr. Bridges responded it is.

**PROTEST PETITION:**

Has the City Clerk received any protest petitions on the case? Mr. Bridges responded he had not.

**SUMMARY OF HEARING:**

I now ask the Council members if they have all received copies of the unapproved Minutes of the Planning Commission for November 20, 2007 which summarizes

the hearing on the case? Having determined that the members have received the required information, I am going to ask the applicant and members of the public present the first of two questions:

- (1) To those who are present on this case, do you feel that you had a fair and impartial hearing? Kevin Dreiling, applicants representative, responded they had.

(Should any questions arise as to this matter, the Council with the assistance of the City Attorney needs to determine if such response(s) warrants returning the case to the Planning Commission for a continuation or a rehearing de novo, i.e., from the beginning.)

- (2) After the Zoning Administrator's report, I will be asking the second question to the applicant and the public who may wish to speak to this item. Is there any new information on this case not otherwise presented at the hearing that should be brought to the attention of the Council?

The Council may also want to direct questions to the applicant, the staff or other persons present.

**ZONING ADMINISTRATOR'S REPORT:**

I now call on our Zoning Administrator, Leslie E. Mangus, to provide us with a brief background report on the case and recommendation(s) of the Planning Commission. Mr. Mangus explained the lot is the 1<sup>st</sup> lot south of The River subdivision and is currently under sales contract. Mr. Mangus added the Planning Commission held the public hearing at their meeting.

**APPLICANT'S RESPONSE:**

Does the applicant wish to present any new information? Kevin Dreiling stated the sale of the property is contingent upon the passing of this zoning change to B-3 Central Shopping. If the current sales contract is not closed upon, the zoning would remain R-1 Single Family Residential.

Jeff Bridges explained if the zoning was approved the publication would be subject to the closing of the sale.

**FINAL PUBLIC COMMENTS:**

Does anyone from the public wish to respond to the applicant's information or provide any new information? No one spoke.

**COUNCIL DELIBERATION:**

Assuming the Council has received all the information on this case, I will outline the choices provided under the state statutes for Council action: (K.S.A. 12-757(c) )

- (1) By a majority vote, move to adopt the findings and factors and recommendation by the Planning Commission Case No. (Z-2007-09) and to approve Ordinance No. 1369.

(Note: If a valid protest petition is determined, four votes will be needed to approve the case.)

- (2) By a 2/3-majority vote, move to override the Planning Commission's recommendation and to describe in detail the findings and factors supporting the motion.
- (3) By a majority vote, return the recommendation to the Planning Commission for further consideration with a statement specifying the basis for the Council's failure to approve or disapprove the recommendation.

(Note: If the Council returns the Planning Commission's recommendation, the Planning Commission, after considering the same, may resubmit its original recommendation giving the reason therefor or submit a new and amended recommendation. Upon the receipt of such recommendation, the Council, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendation by ordinance, or it need take no further action thereon. If the Planning Commission fails to deliver its recommendation to the Council following the Planning Commission's next regular meeting after receipt of the Council's report, the Council shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly. In either circumstance, the Council may take any action they desire by majority vote.

A motion was made by Council Member Nelson, seconded by Council Member Reams, to approve Ordinance 1369 on record of the Planning Commission's recommendation, specifically finding's 1, 2, 5, 6, 10, 14, and 15 and subject to publication of the Ordinance. Motion carried 5/0.

**CLOSING REMARKS:**

(Persons aggrieved by the final decision of the Council on this matter having 30 days after the effectuating ordinance is published within which to appeal to District Court.)

We want to thank all of you for participating in this matter and you are welcome to stay for the remainder of our meeting. I now call for next Agenda item.

J.T. Klaus, Triplett, Woolf, & Garretson, City’s Bond Council, presented Ordinance 1370, an ordinance approving the issuance of \$4,590,000 industrial revenue bonds for the Hotel at the River (Holiday Inn Express).

Ordinance 1370  
YMCA \$4,590,000 IRB

Ordinance 1367 had been previously approved by the Council for the bond issuance but the borrower failed to close the transaction as dated in the ordinance. This ordinance has new dates for closing and assured it will close in a timely manner.

A motion was made by Council Member Nelson, seconded by Council Member Hale, to adopt Ordinance 1370 to issue \$4,590,000 in Industrial Revenue Bonds for the purpose set forth in the ordinance. Motion carried 5/0.

Council Member Dreiling returned to the bench.

After discussion concerning the sale of Lot 2, Block 1, Andover Industrial Park, to Scott Bishop for \$33,059.00, a motion was made by Council Member Nelson, seconded by Council Member Jessen, to accept the contract as presented. Motion carried 6/0.

Lot 2, Block 1  
Andover Industrial Park

A motion was made by Council Member Nelson, seconded by Council Member Dreiling, to approve the 2007 Budget Amendment as presented. Motion carried 6/0.

2007 Budget Amendment

A motion was made by Council Member Nelson, seconded by Council Member Reams, to adopt Resolution 07-35 - a resolution of the City of Andover amending Chapter 2 Article 6, Personnel Policy and Guidelines, Employee Benefits, as it relates to allowances and stipends. Motion carried 6/0.

Resolution 07-35  
Personnel Policies  
Amending Chapter 2,  
Article 6  
Allowances & Stipends

A motion was made by Council Member Nelson, seconded by Council Member Reams, to adopt Resolution 07-36 - a resolution of the City of Andover setting various allowances and stipends for city employees. Motion carried 6/0.

Resolution 07-36  
Personnel Policies  
Setting Allowances and  
Stipends

After a brief discussion by the Council a motion was made by Council Member Nelson, seconded by Council Member Jessen, to close City Hall at 12 noon on December 24<sup>th</sup>, Christmas Eve and re-open Wednesday, December 26, at 8 am. Motion carried 6/0.

Holiday Schedule

Member Items:

Member Items

Council Member Jessen thanked the Andover Street Department for their great job with the streets during the recent icing.

Council Member Dreiling congratulated the Butler Community College Football Grizzlies for bring home the national championship for the 5<sup>th</sup> year.

-Council Member Dreiling also congratulated Rachel Schwartzbeck, Meadowlark 5<sup>th</sup> grader, for winning the 2008 KNEA Reading Across America Poster Contest. Great job Rachel!

-Council Member Dreiling mentioned that for future Industrial Park lot sales that maybe the Council should be informed of the intended use.

Council Member Hale reminded everyone that Hometown Christmas would be celebrated Thursday, December 13, 6:30pm at Andover Central Park Lodge.

Council Member Nelson congratulated Rachel on her spectacular achievement.

-Council Member Nelson also congratulated Randy Fogg, Andover Journal-Advocate, on his recent marriage.

Council Member Reams wished everyone a happy holiday and to be safe and have fun.

Council Member Roberts had no comments.

A motion was made at 7:43 p.m. by Council Member Nelson, seconded by Council Member Dreiling, to recess the Council meeting until December 27, 7:00 p.m., Andover City Hall, 909 North Andover Road. Motion carried 6/0.

Recess meeting to  
December 27, 2007

Respectfully Submitted by

Susan Renner

Administrative Secretary

Approved this 27th day of December, 2007 by the City Council, City of Andover.

Jeffrey K. Bridges

City Clerk